

(4)

BEFORE THE HON'BLE HIGH COURT OF JUDICATURE AT JABALPUR .

WRIT PETITION NO. 2634 OF 1998.

13/6/98
99

PETITIONER : 1- Pannalal Gupta, son of Shri Sdhulal Gupta aged about 83 years, Sole Proprietor Firm Sdhulal Pannalal, resident of Halwai Line Rajnandgaon.

2- Sarad Chitlangya, son of Kishanchand Chitlangya aged about 45 years, resident of Basantpur, Rajnandgaon M.P.

- v e r s u s -

RESPONDENTS : 1- The State of M.P. through Secretary Local Self Government Ballabh Bhavan Bhopal M.P.

2- Rajnandgaon Municipal Corporation A statutory Corporate Body under Madhya Pradesh Municipal Corporation Act 1956, through Municipal Commissioner, Rajnandgaon (M.P.).

3- Officer Incharge, Revenue Municipal Corporation, Rajnandgaon (M.P.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

DETAILS OF WRIT PETITION

- 1- Particulars of the petitioners :
As given in the cause title above.
- 2- Particulars of the respondents :
As given in the cause title above.
- 3- Particulars of the order against from which the petition is being made :

contd.....2/

ARMED NISHORE GUPTA ADVOCATE.
AGED ABOUT 45 YRS? SS to LATE PANNALAL GUPTA
R/O AIRWAY LINE RAJMAHARAJON.
DIST. RAJ EDWON.

Subsidiary
of
the
Central
Government
of
India

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 2634/98 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	DB: <u>Hon'ble Shri A.K.Patnaik, C.J. &</u> <u>Hon'ble Shri Sunil Kumar Sinha, J.</u> 23.6.2005 Heard Mr. B.P. Gupta, counsel for the petitioners and Mr. Sanjay S. Agrawal, Govt. advocate for the State. The petitioners are residents of Rajnandgaon and they own different properties in Rajnandgaon town. In this writ petition, they have challenged Section 138 of the M.P. Municipal Corporation Act, 1956 as ultra vires being contrary to the provisions of Article 14 of the Constitution. They have further prayed to declare the M.P. Nagar Palika (Determination of Annual Letting Value of the Buildings/lands) Rules 1997 as ultra vires to the Municipal Corporation Act, 1956. The petitioners have also prayed for a declaration declaring the resolution dated 30.12.1997 of the Municipal Council in question as illegal and void being contrary to law. In case of <u>Sakhi Gopal Agrawal & others -v- State of M.P. & others</u> and other connected cases, reported in <u>2003 (II) MPJR 406</u>, the full bench of the M.P. High Court has already held that Section 138 of the Municipal Corporation Act, 1956 is not a defiant	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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	of Article 14 of the Constitution of India and does not suffer the frown of the equality clause or any kind of arbitrariness or irrationality. By the said judgment, the full bench of M.P. High Court has also held that if property owner is affected by the resolution passed by the Municipal Corporation or Municipality, he can assail the same in its entirety before the appropriate authority as provided under both the statutes. In the said judgment, it is held that the Municipal Corporation as well as Municipality cannot fix the rent on category basis taking into consideration the classifications made under the Municipal Corporation Act, 1956 and the Rules of 1997 made thereunder. Accordingly, this writ petition is disposed of in terms of the said judgment passed in Sakhi Gopal Agrawal and other connected cases (Supra).	
	Sd/- Chief Justice	Sd/- Sunil Kumar Sinha Judge

Rao

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